

WAC 162-08-268 Voluntary dismissal. (1) **Prior to day of hearing.** Except as may be provided for cases alleging unfair practices in real estate transactions, on the day when the hearing of a case commences the commission or any other party on the side supporting the complaint may voluntarily dismiss the party's case or a claim by serving and filing a written notice of dismissal.

(2) **After hearing commenced.** Except as may be provided for cases alleging unfair practices in real estate transactions, after a hearing has commenced the commission or any other party on the side supporting the complaint may move for voluntary dismissal of the party's case or a claim. A motion that is made before the party rests at the conclusion of its opening case shall be granted as a matter of right. A motion made after that time may be granted if good cause is shown, and the grant may be subject to such terms and conditions as the administrative law judge deems proper.

(3) **Effect of dismissal.** A voluntary dismissal concludes the administrative proceeding as to the dismissed party or claim, but is not an adjudication of the merits of the issues before the administrative law judge (that is, the merits may still be adjudicated in another forum if the party has a right to sue in another forum and timely files such claim with the other forum). A voluntary dismissal of one claim does not extinguish any other claim, and a voluntary dismissal by one party does not dismiss any other party. If the commission takes a voluntary dismissal of the case in support of the complaint the entire case is closed, unless the complainant has appeared independently under WAC 162-08-261 or another person has intervened as a party on the side of the complaint pursuant to WAC 162-08-288(4), in which circumstance the hearing shall proceed with the remaining parties.

[Statutory Authority: RCW 49.60.120(3) and 49.60.240. WSR 96-13-045, § 162-08-268, filed 6/13/96, effective 7/14/96. Statutory Authority: RCW 49.60.120(3). WSR 89-23-020, § 162-08-268, filed 11/7/89, effective 12/8/89; Order 35, § 162-08-268, filed 9/2/77.]